

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION**

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**THIS DOCUMENT RELATES TO
ALL CLASS ACTIONS**

**AFFIDAVIT OF MICHAEL W. JACOBSON, FUND ADMINISTRATOR
OF THE NATIONAL AUTOMATIC SPRINKLER INDUSTRY
WELFARE FUND**

I, Michael W. Jacobson, on oath, depose and state as follows:

1. I am the Fund Administrator of the National Automatic Sprinkler Industry Welfare Fund referred to, as ("NASI"). I have full knowledge of the matters stated herein, and could and would testify hereto if necessary.
2. The National Automatic Sprinkler Industry Welfare Fund referred to, as ("NASI") is a self-insured, non-profit, nationally administered labor-management trust fund established through collective bargaining pursuant to the Labor-Management Relations Act ("Taft-Hartley"). The purpose of the Fund is to provide hospital, physician, pharmaceutical, other medical care, and related benefits for workers represented by various Sprinkler Fitter Locals of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada. Its main office is located at 8000 Corporate Drive, Landover, Maryland, 20785. The NASI is a multi-employer welfare plan as those

terms are defined in 29 USC §§ 1002(1) and (37)(A). Plaintiffs' "participants", as defined in 29 USC § 1002(7), are employees of employers engaged in the business of the installation, maintenance and repair of automatic sprinkler systems. NASI's "beneficiaries", as defined in 29 USC § 1002(8), are the minor children and spouses of its participants. NASI is administered and maintained through a Declaration of Trust that has been adopted by representatives of various sprinkler fitter local unions and employers signatory to collective bargaining agreements with that union.

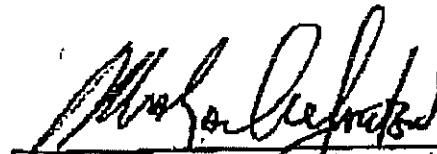
3. Pursuant to the Trust Agreement under which it was created, NASI provides comprehensive health care benefits to approximately 45,000 participants and beneficiaries who are employed under various collective bargaining agreements ("employees"), and their dependants, as well as retirees. NASI's participants are engaged in the business of the installation, maintenance and repair of automatic sprinkler systems throughout the United States and made purchases of defendant's drugs in Illinois.
4. NASI's health and medical benefits are provided under written benefit plans. When a participant has Medicare coverage, in addition to NASI's plan, NASI will reimburse claims as follows:
 - a. Medicare provides primary coverage and NASI provides secondary coverage.
5. The 20 percent co-payment under Medicare Part B is, and has been, an eligible expense under NASI's plan during the Class Period.

6. For those without Medicare Part B coverage, NASI has generally provided prescription drug coverage under its prescription benefit program as follows:

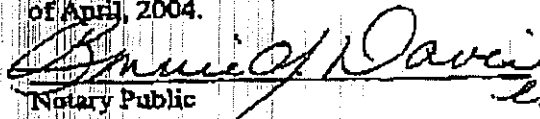
- a. Since February 1999 NASI has contracted with Caremark, Inc. a pharmacy benefit manager, to administer NASI's prescription drug plan. Since July 1, 2002 NASI pays for all mail order brand name prescription drug purchases at the rate of AWP less 22 percent and all mail order generic prescription drug purchases at AWP less 55 percent. In addition, NASI pays for all retail pharmacy brand name prescription drug purchases at the rate of AWP less 15 percent and all retail pharmacy generic prescription drug purchases at AWP less 52 percent.

7. During the Class Period, for the following Defendant as set forth below (and for additional Defendants as further investigation may demonstrate), NASI paid for purchases of name brand/generic pharmaceuticals based on AWP:

- a. Boehringer Group (Boehringer, Ben Venue, Bedford Laboratories):
During the Class Period, NASI made payments, in whole or in part, based on AWP for drugs manufactured by Boehringer Group (Boehringer, Ben Venue, Bedford Laboratories), including but not limited to: methotrexate (NDC 55390-031-10).


Michael W. Jacobson, Fund Administrator

Subscribed to before me this 23 day
of April, 2004.


Notary Public exp. 6/14/07